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# SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

CC Docket  
02-44

THE WASHINGTON HARBOUR  
3000 K STREET, NW, SUITE 300  
WASHINGTON, DC 20007-5116

TELEPHONE (202) 424-7500

FAX (202) 424-7645

WWW.SWIDLAW.COM

**RECEIVED**

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NEW YORK OFFICE  
THE CHRYSLER BUILDING  
405 LEXINGTON AVENUE  
NEW YORK, NY 10174  
(212) 973-0111 FAX (212) 891-9598

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**PLEASE DATE STAMP & RETURN**

February 22, 2002

## VIA COURIER

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
P.O. Box 358115  
Pittsburgh, PA 15251-5145

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

FEB 22 2002

**PLEASE DATE STAMP & RETURN**

Re: Application of McLeodUSA Incorporated for Authority to Transfer Indirect Control of  
Authorized U.S. International Carriers

Dear Ms. Salas:

On behalf of McLeodUSA Incorporated, please find an original and six (6) copies of an application for Commission approval to transfer indirect control of the international Section 214 authorizations held by McLeodUSA Incorporated's operating companies. Concurrent with this application, McLeodUSA Incorporated is also filing an application for Commission approval of the transfer of control of the blanket domestic Section 214 authority held by McLeodUSA Incorporated's operating subsidiaries.

Enclosed, please find a check in the amount of \$815.00 to cover the Commission's filing fee. Please date-stamp the enclosed extra copy of this filing and return it in the envelope provided. Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,



Richard M. Rindler

Edward S. Quill, Jr.

Counsel for Applicants

Enclosure

cc: David R. Conn (McLeodUSA)  
Grace R. Chiu (SBSF)

3975171

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

\_\_\_\_\_  
 In the Matter of )  
 )  
 )

**McLEODUSA INCORPORATED** )

File No. ITC-T/C-2001-\_\_\_\_\_

Application for Authority Pursuant to )  
 Section 214 of the Communications Act of 1934, )  
 As Amended, to Transfer Indirect Control )  
 of Authorized U.S. International )  
 Carriers )  
 \_\_\_\_\_

**APPLICATION**

**I. INTRODUCTION**

McLeodUSA Incorporated ("Parent"), by and through undersigned counsel and pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214 (1982) (the "Act"), and Section 63.18 of the Commission's Rules, 47 C.F.R. § 63.18 (2000), hereby requests authority for the indirect transfer of control of McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), CapRock Telecommunications Corp. ("CapRock") and IWL Communications, Inc. d/b/a CapRock Services Corp. ("IWL," with McLeodUSA and CapRock, the "McLeodUSA Operating Companies"), with respect to their international section 214 authorizations, to five affiliated funds: Forstmann Little & Co. Equity Partnership-VII, L.P. ("Equity-VII"), Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VIII, L.P. ("MBO-VIII"), Forstmann Little & Co. Equity Partnership-V, L.P. ("Equity-V"), Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VI, L.P. ("MBO-VI"), and Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VII,

L.P. ("MBO-VII")(collectively "Forstmann Little," together with Parent and the McLeodUSA Operating Companies, "Applicants").

**A. Summary of the Indirect Transfer of Control**

The McLeodUSA Operating Companies are all indirect subsidiaries of Parent. As described more fully below, Parent filed a pre-negotiated plan of reorganization (the "Reorganization Plan" or "Plan") in its chapter 11 bankruptcy proceeding as a key step in positioning Parent for the future through a restructuring of its capital structure.<sup>1</sup> As a result of the consummation of the Plan, Forstmann Little will acquire an approximate ownership interest of 57 percent in Parent and therefore, indirectly, in the McLeodUSA Operating Companies.

**B. Request for Expedited Consideration**

Applicants respectfully request expedited consideration of this Application in order for the McLeodUSA Operating Companies to realize certain financial benefits that are essential to their respective continued operations. Because Applicants need to consummate the transaction described herein on or about April 5, 2002, Applicants request that the Commission approve this Application on an expedited basis to allow Applicants to complete the proposed transaction as soon as possible.

**C. Application Eligible for Streamlined Processing**

Applicants respectfully submit that this Application is eligible for streamlined processing pursuant to Section 63.12 of the Commission's Rules, 47 C.F.R. § 63.12. Forstmann Little is not a foreign carrier or affiliated with a foreign carrier, as defined Section 63.09 of the

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<sup>1</sup> The Reorganization Plan is supported by Parent's Board of Directors, its senior secured lenders, Equity-V, MBO-VI, MBO-VII, the ad hoc committee of holders of Parent's unsecured notes, and certain of Parent's preferred shareholders.

Commission's Rules, 47 C.F.R. § 63.09, and none of the other scenarios outlined in Section 63.12(c) of the Commission's Rules, 47 C.F.R. § 63.12, apply.<sup>2</sup>

In support of this Application, Applicants provide the following information:

## **II. THE PARTIES**

### **A. McLeodUSA Incorporated - Transferor**

McLeodUSA Incorporated ("Parent") is a publicly traded Delaware corporation whose principal place of business is located at McLeodUSA Technology Park, 6400 C Street, SW, Cedar Rapids, Iowa 52406-3177. McLeodUSA, CapRock and IWL are all wholly-owned indirect subsidiaries of Parent.

### **B. Forstmann Little - Transferees**

The partnerships of Forstmann Little are members of a family of affiliated private investment funds with principal address of 767 Fifth Avenue, New York, NY 10153. As noted above, Forstmann Little, for purposes of this Application is defined to include five affiliated funds: Forstmann Little & Co. Equity Partnership-VII, L.P. ("Equity-VII"), Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VIII, L.P. ("MBO-VIII"), Forstmann Little & Co. Equity Partnership-V, L.P. ("Equity-V"), Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VI, L.P. ("MBO-VI"), and Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VII, L.P. ("MBO-VII")(collectively "Forstmann Little").

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<sup>2</sup> Forstmann Little has entered into a transaction whereby it and Telefonos de Mexico ("TelMex") may each acquire an interest of more than 25 percent in XO Communications, Inc. ("XO Communications"). Applicants understand that TelMex is a dominant Mexican carrier. To the extent that that transaction is consummated and XO Communications is treated as a dominant carrier under the Commission's rules, the McLeodUSA Operating Companies will not resell XO Communications' services on any route over which XO Communications is deemed dominant without seeking additional Commission approval.

### **C. McLeodUSA, CapRock and IWL - Licensees**

McLeodUSA is an Iowa corporation that provides integrated communications services, including international services, primarily in 25 Midwest, Southwest, Northwest and Rocky Mountain states. McLeodUSA's principal place of business is located at McLeodUSA Technology Park, 6400 C Street, SW, Cedar Rapids, Iowa 52406-3177. CapRock is a Texas corporation with principal offices located at 15601 Dallas Parkway, Suite 700, Addison, Texas 75001. IWL is a Texas corporation whose principal offices are located at 12000 Aerospace Avenue, Suite 200, Houston, Texas 77034. All of the McLeodUSA Operating Companies are authorized to provide international communications services pursuant to Section 214 authority granted by the Commission.

### **III. DESCRIPTION OF THE TRANSACTION**

As stated above, Parent has formulated a Reorganization Plan to restructure its capital structure. The Plan involves, among other things, an increase in the equity ownership held by Forstmann Little, as set forth below.

The Reorganization Plan proposes, upon consummation, that Forstmann Little will own approximately 57 per cent of the reorganized Parent's common stock. Forstmann Little and their affiliates have long been recognized as a preeminent acquirer and owner of businesses. Over its 23-year history, the firm has invested almost \$12 billion in the 29 acquisitions and investments it has made. Forstmann Little and their affiliates focus exclusively on acquiring high quality, high growth companies, investing substantial amounts of its own capital to provide for significant ongoing expansion.

The Reorganization Plan contemplates that Equity-V, MBO-VI and MBO-VII will convert their existing Series D and Series E Preferred Stock into common stock, representing

approximately 35 per cent of the reorganized Parent's common stock, and that Equity-VII and MBO-VIII will purchase for approximately \$175 million approximately 23 per cent of the reorganized Parent's common stock and 5-year warrants to purchase an additional 6 per cent of common stock for \$30 million. Upon the consummation of these transactions, Forstmann Little will own approximately 57 per cent of Parent's Common Stock. Applicants therefore seek approval of the indirect transfer of control of the McLeodUSA Operating Companies to Forstmann Little.<sup>3</sup> Attached hereto as Exhibit A is an illustrative chart depicting the corporate structure of Parent and the McLeodUSA Operating Companies prior to and immediately following consummation of the Reorganization Plan.

Applicants emphasize that the indirect transfer of control described herein will not involve a change in the names under which the McLeodUSA Operating Companies respectively operate nor any change in the manner in which the McLeodUSA Operating Companies currently offer international service. Immediately following the recapitalization, the McLeodUSA Operating Companies will continue to offer the services they currently offer with no change in the rates or terms and conditions of service. The McLeodUSA Operating Companies, moreover, will continue to be led by the same team of experienced telecommunications management. The indirect transfer of control of the McLeodUSA Operating Companies to Forstmann Little therefore will be seamless and transparent to the McLeodUSA Operating Companies' international services customers, in terms of the services they receive.

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<sup>3</sup> As stated above, the transactions described herein are subject to confirmation of the Reorganization Plan by the Bankruptcy Court.

#### **IV. PUBLIC INTEREST CONSIDERATIONS**

Approval of the indirect transfer of control described herein will serve the public interest in promoting competition among telecommunications carriers. Specifically, the indirect transfer of control of the McLeodUSA Operating Companies that will result from Forsmann Little's increased equity ownership of Parent (resulting from its new investment and conversion of preferred stock) will provide the McLeodUSA Operating Companies with the opportunity to strengthen their respective competitive position through access to the improved capital structure of their ultimate parent. In addition, the improved financial position of Parent that will result from this increase in funding will enable Parent to implement its long-term growth plans and to significantly enhance the operational flexibility and efficiency, as well as the respective long-term financial viability of the McLeodUSA Operating Companies. These enhancements will inure directly to the benefit of the McLeodUSA Operating Companies' customers. The proposed transaction will therefore ensure the provision of innovative, high quality telecommunications services to the public and should promote competition in the international telecommunications service market.

#### **V. INFORMATION REQUIRED BY SECTION 63.18**

(a) Name, address and telephone number:

Transferor: McLeodUSA Incorporated  
McLeodUSA Technology Park  
6400 C Street, SW  
Cedar Rapids, Iowa 52406-3177  
Tel: (319) 790-6823

Transferees: Forstmann Little & Co. Equity Partnership-VII, L.P. ("Equity-VII")  
Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VIII, L.P. ("MBO-VIII")  
Forstmann Little & Co. Equity Partnership-V, L.P. ("Equity-V")  
Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VI, L.P. ("MBO-VI")  
Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VII, L.P. ("MBO-VII")  
767 Fifth Avenue  
New York, NY 10153  
Tel: (212) 355-5656

Licensees: McLeodUSA Telecommunications Services, Inc.  
McLeodUSA Technology Park  
6400 C Street, SW  
Cedar Rapids, Iowa 52406-3177  
Tel: (319) 790-6823

CapRock Telecommunications Corp.  
15601 Dallas Parkway  
Suite 700  
Addison, Texas 75001

IWL Communications, Inc. d/b/a CapRock Services Corp.  
12000 Aerospace Avenue  
Suite 200  
Houston, Texas 77034.

(b) Transferor: Parent is organized under the laws of the State of Delaware.

Transferee: Equity-VII, MBO-VIII, Equity-V, MBO-VI, and MBO-VII are each organized under the laws of the State of Delaware.

Licensee: McLeodUSA is organized under the laws of the State of Iowa. CapRock and IWL are each organized under the laws of the State of Texas.



- (c) Correspondence concerning this Application should be sent to:

Richard M. Rindler  
Edward S. Quill, Jr.  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
Tel: (202) 424-7500  
Fax: (202) 424-7645

- (d) Transferor: Parent has not previously received authority under Section 214 of the Act.
- Transferee: Equity-VII, MBO-VIII, Equity-V, MBO-VI, and MBO-VII have not themselves previously received authority under Section 214 of the Act.
- Licensee: McLeodUSA and CapRock hold global authority to provide international switched services on a resold basis pursuant to Section 214 authority issued by the Commission in File Nos. ITC-93-311 and ITC-95-237 issued on October 27, 1993 and May 24, 1995 respectively. IWL Communications is authorized to resell international public switched services and to operate as a nondominant global facilities-based and resale carrier pursuant to Section 214 authority granted by the Commission in File No. ITC-94-208 on April 20, 1994.
- (e)(3) By this Application, Applicants seek authority to transfer indirect control of the McLeodUSA Operating Companies, all nondominant common carriers holding international Section 214 authority, to Forstmann Little.
- (f) Not applicable. However, concurrently with the filing of this Application, Applicants are filing a domestic Section 214 application for approval of the same indirect transfer of control of the McLeodUSA Operating Companies to Forstmann Little.
- (g) Not applicable.

- (h) Information concerning the ten percent (10%) or greater shareholders of Applicants is as follows:

The following entry owns 100% of **McLeodUSA Telecommunications Services, Inc.:**

Name: **McLeodUSA Holdings, Inc.**  
Address: **McLeodUSA Technology Park**  
**6400 C Street, SW**  
**Cedar Rapids, Iowa 52406-3177**  
Citizenship: **USA**  
Percentage Owned: **100%**  
Principal Business: **Telecommunications**

The following entry owns 100% of **CapRock Telecommunications Corp. and IWL Communications, Inc.:**

Name: **CapRock Communications Corp.**  
Address: **15601 Dallas Parkway**  
**Suite 700**  
**Addison, Texas 75001**  
Citizenship: **USA**  
Percentage Owned: **100%**  
Principal Business: **Telecommunications**

The following entry owns 100% of **McLeodUSA Holdings, Inc. and CapRock Communications Corp.:**

Name: **McLeodUSA Incorporated**  
Address: **McLeodUSA Technology Park**  
**6400 C Street, SW**  
**Cedar Rapids, Iowa 52406-3177**  
Citizenship: **USA**  
Percentage Owned: **100%**  
Principal Business: **Telecommunications**

After completion of the transaction, three entities will hold a ten percent (10%) or greater ownership interest in McLeodUSA Incorporated. Information concerning those three entities and their ownership structures is as follows:

- 1) **Name:** Forstmann Little & Co. Equity Partnership-V, L.P.  
 ("Equity-V")  
**Address:** 767 Fifth Avenue  
 New York, NY, 10153  
**Citizenship:** USA  
**Percentage Owned:** 11%  
**Principal Business:** Investment

**The sole general partner of Equity-V is as follows:**

**Name:** FLC XXX Partnership, L.P. ("FLC XXX")  
**Address:** 767 Fifth Avenue  
 New York, NY, 10153  
**Citizenship:** USA  
**Principal Business:** Investment

The general partners of FLC XXX are as follows:

**Names:** Theodore J. Forstmann, Sandra J. Horbach, Thomas H. Lister and Winston W. Hutchins

**Address:** 767 Fifth Avenue  
New York, NY, 10153

**Citizenship:** USA

**Principal Business:** Individuals

- 2) Name: Forstmann Little & Co. Subordinated Debt and Equity  
Management Buyout Partnership-VII, L.P.  
("MBO-VII")  
Address: 767 Fifth Avenue  
New York, NY, 10153  
Citizenship: USA  
Percentage Owned: 17%  
Principal Business: Investment

**The sole general partner of MBO-VII is as follows:**

**Name:** FLC XXXIII Partnership, L.P. ("FLC XXXIII")  
**Address:** 767 Fifth Avenue  
 New York, NY, 10153  
**Citizenship:** USA  
**Principal Business:** Investment

The general partners of **FLC XXXIII** are as follows:

**Names:** Theodore J. Forstmann, Sandra J. Horbach, Thomas H. Lister, Winston W. Hutchins, Jamie C. Nicholls and Gordon A. Holmes  
**Address:** 767 Fifth Avenue  
New York, NY, 10153  
**Citizenship:** All of the above individuals are citizens of the USA, except Gordon A. Holmes who is a citizen of the Republic of Ireland.  
**Principal Business:** Individuals

- 3) **Name:** Forstmann Little & Co. Equity Partnership-VII, L.P.  
("Equity-VII")  
**Address:** 767 Fifth Avenue  
New York, NY, 10153  
**Citizenship:** USA  
**Percentage Owned:** 14%  
**Principal Business:** Investment

The sole general partner of **Equity-VII** is as follows:

**Name:** **FLC XXXII Partnership, L.P. ("FLC XXXII")**  
**Address:** 767 Fifth Avenue  
New York, NY, 10153  
**Citizenship:** USA  
**Principal Business:** Investment

The general partners of **FLC XXXII** are as follows:

**Names:** Theodore J. Forstmann, Sandra J. Horbach, Thomas H. Lister, Winston W. Hutchins, Jamie C. Nicholls and Gordon A. Holmes  
**Address:** 767 Fifth Avenue  
New York, NY, 10153  
**Citizenship:** All of the above individuals are citizens of the USA, except Gordon A. Holmes who is a citizen of the Republic of Ireland.  
**Principal Business:** Individuals

No other person or entity will hold a ten percent (10%) or greater direct or indirect ownership interest in the McLeodUSA Operating Companies after the consummation of the transaction.

Forstmann Little currently has no interlocking directorates with a foreign carrier.

- (i) Forstmann Little certifies that it is not a foreign carrier and that it is not currently affiliated with any foreign carrier.
- (j) Forstmann Little certifies that it does not seek to provide international telecommunications services to any destination country where:
  - (1) Forstmann Little is a foreign carrier in that country; or
  - (2) Forstmann Little controls a foreign carrier in that country; or
  - (3) Any entity that owns more than 25 percent of Forstmann Little, or that controls Forstmann Little, controls a foreign carrier in that country.
  - (4) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate more than 25 percent of Forstmann Little and are parties to, or the beneficiaries of, a contractual relation affecting the provision or marketing of international basic telecommunications services in the United States.
- (k) Not applicable.
- (l) Not applicable.
- (m) Not applicable.
- (n) Forstmann Little certifies that it has not agreed to accept special concessions, as defined in Section 63.14(b) of the Commission's Rules, directly or indirectly, from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route, and will not enter into such agreements in the future.
- (o) Equity-VII, MBO-VIII, Equity-V, MBO-VI, and MBO-VII each certifies for itself and Parent certifies for itself and the McLeodUSA Operating Companies, pursuant to Sections 1.2001 through 1.2003 of the Commission's Rules (implementing the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 3301), that it is not subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.
- (p) Applicants request streamlined processing of this Application pursuant to Section 63.12(a)-(b) of the Commission's Rules. This Application qualifies for streamlined processing because, as set forth above, Forstmann Little has no affiliation with a foreign carrier, has no affiliation with a dominant U.S. carrier whose international switched or private line services Forstmann Little seeks authority to resell, and does not seek authority to provide switched basic services over private lines to a country for which the Commission has not previously authorized the provision of such services.

**VI. CONCLUSION**

For the reasons stated herein, Applicants respectfully submit that the public interest, convenience and necessity would be furthered by grant of this Application for consent of indirect transfer of control of the McLeodUSA Operating Companies to Forsmann Little.

Respectfully submitted,

By: 

Richard M. Rindler  
Edward S. Quill, Jr.  
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP  
3000 K Street, N.W., Suite 300  
Washington, DC 20007  
Tel: (202) 424-7742  
Fax: (202) 424-7645

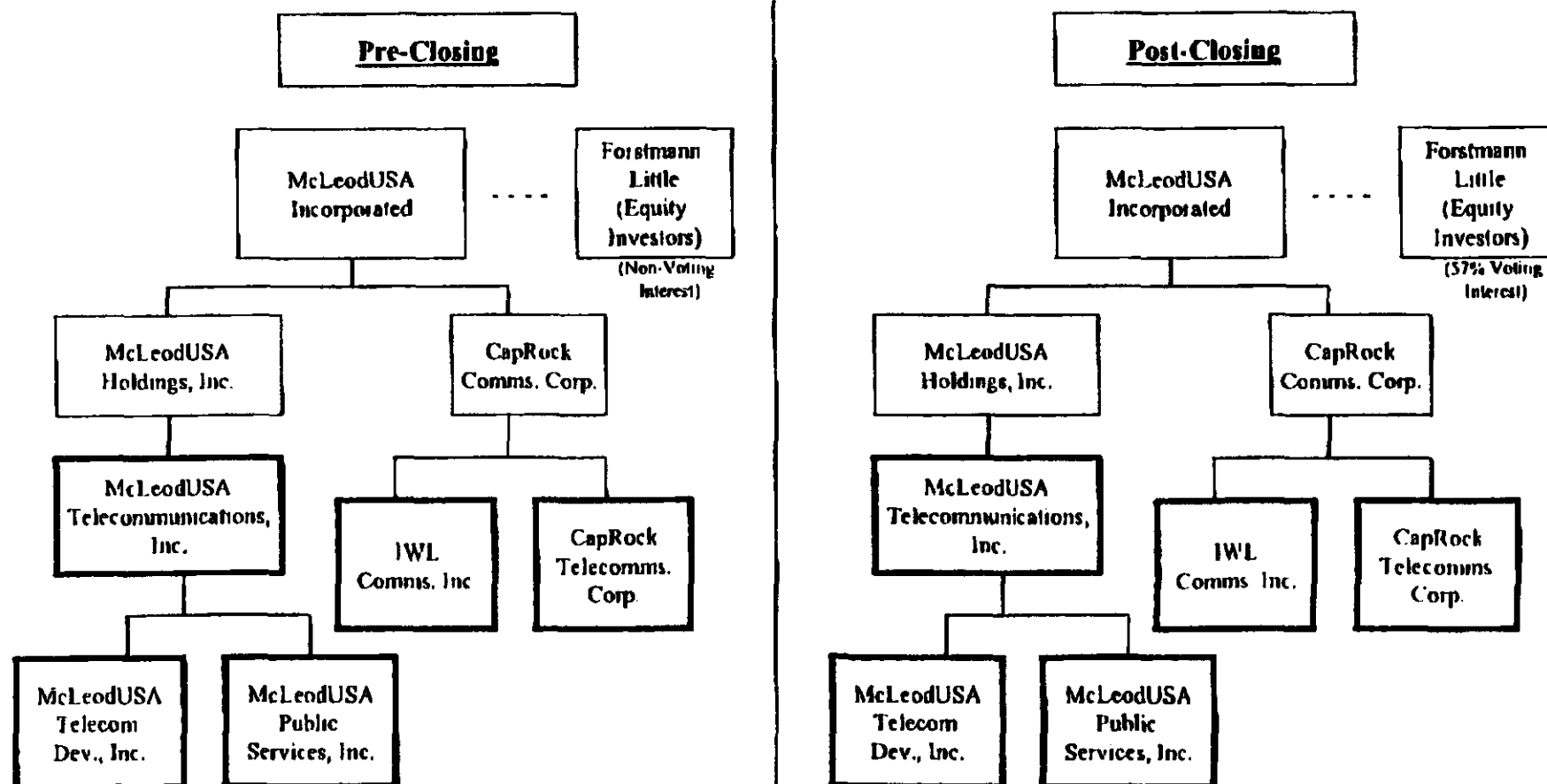
Counsel for Applicants

Dated: February 22, 2002

**Exhibit A**

**Illustrative Chart**

# **EXHIBIT A** **Illustrative Chart**



\* Chart does not depict affiliates of Applicant whose principal business is not telecommunications

395677.5

Key: Telecom Utility Non-Telecom Utility



**Verification**

**CERTIFICATION**

On behalf of Forstmann Little & Co., I hereby certify that the statements in the foregoing Application for Section 214 authority are true, complete, and correct to the best of my knowledge and are made in good faith.

**Forstmann Little & Co. Equity Partnership-VII, L.P.**

By: FLC XXXII Partnership, L.P., its general partner

By: Winston W. Hutchins

Name: Winston W. Hutchins

a general partner

**Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VIII, L.P.**

By: FLC XXXIII Partnership, L.P., its general partner

By: Winston W. Hutchins

Name: Winston W. Hutchins

a general partner

**Forstmann Little & Co. Equity Partnership-V, L.P.**

By: FLC XXX Partnership, L.P., its general partner

By: Winston W. Hutchins

Name: Winston W. Hutchins

a general partner

**Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VI, L.P.**

By: FLC XXIX Partnership, L.P., its general partner

By: Winston W. Hutchins

Name: Winston W. Hutchins

a general partner

**Forstmann Little & Co. Subordinated Debt and Equity Management Buyout Partnership-VII, L.P.**

By: FLC XXXIII Partnership, L.P., its general partner

By: Winston W. Hutchins

Name: Winston W. Hutchins

a general partner

February 20, 2002

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